



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

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RECEIVED

MAY 9 1995

SUPERFUND BRANCH

May 8, 1995

Reply To
Attn Of: SO-155

Union Pacific Railroad
Nancy A. Roberts, Attorney
1416 Dodge Street
Omaha, NE 68179

Re: AOC for Summer Work

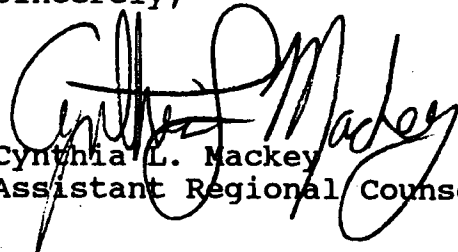
Dear Ms. Roberts:

I have enclosed a final draft of an AOC for summer work by Union Pacific Railroad. The changes made from your previous draft are as follows:

- (1) Changed caption;
- (2) Changed Respondents to Respondent;
- (3) Paragraph 2: Added last sentence regarding delegation to Branch Chief;
- (4) Paragraph 5: Added factual information to last sentence;
- (5) Paragraph 7: Eliminated subparagraph (e);
- (6) Paragraph 11: Last sentence changed "may" to "shall"; and
- (7) Added EPA signature.

If you have any comments or questions concerning these changes, please call me at (206) 553-1777 so I can prepare the final AOC for signature. I appreciate your cooperation in this matter.

Sincerely,


Cynthia L. Mackey
Assistant Regional Counsel

 Printed on Recycled Paper

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bcc: Sean Sheldrake

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
SEATTLE, WASHINGTON

IN THE MATTER OF:)	EPA Docket No.
)	
UNION PACIFIC RAILROAD COMPANY;)	
STAUFFER MANAGEMENT COMPANY;)	ADMINISTRATIVE ORDER
RHONE-POULENC, INC.)	ON CONSENT FOR 1995
)	RESPONSE ACTION AT THE
Proceedings under Section 106(a))	BUNKER HILL SUPERFUND
of the Comprehensive Environmental)	SITE
Response, Compensation, and)	
Liability Act of 1980, as amended,)	
42 U.S. C. Section 9606(a))	

I. INTRODUCTION

1. This Administrative Order on Consent ("Order") is issued by the United States Environmental Protection Agency ("EPA") to Union Pacific Railroad Company (hereinafter referred to as "Respondent"), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9606(a), as amended. By signing this Order below, Respondent consents to its issuance and agrees to undertake all actions required by the terms and conditions hereunder.

II. JURISDICTION

2. This Order is issued pursuant to the authority conferred on the President of the United States by Section 106(a) of

CERCLA, 42 U.S.C. § 9606(a), as amended; delegated to the Administrator of the EPA by Executive Order 12580, dated January 23, 1987, 52 Fed. Reg. 2923 (February 29, 1987); and further delegated to the EPA Regional Administrators and the EPA Assistant Administrator for Solid Waste and Emergency Response by the EPA Delegations Manual Section 14-14, 14-14-A and 14-14-C. This authority is conferred on the Branch Chief, EPA, Region 10, Superfund Response and Investigation Section, by Regional Redefinition Order signed by the Regional Administrator.

3. Respondent's participation in this Order shall not constitute or be construed as an admission of liability or of EPA's findings or determinations contained in this Order or in the Consent Decree.

III. JUDICIAL REVIEW

4. As provided in Section 113(h) or CERCLA, 42 U.S.C. § 9613(h), as amended, and for purposes of this Order, Respondent shall not seek judicial pre-enforcement review of any matter contained in this Order.

IV. PURPOSES

5. A Consent Decree signed by EPA, the State of Idaho, Union Pacific Railroad Company, Stauffer Management Company, and Rhone-Poulenc, Inc. ("Consent Decree") was filed with the United States District Court for the District of Idaho in Civil Action No. CIV

95-0152-E-HLR. See Fed. Reg. April 11, Volume 60, Number 69, Page 18426. A copy of the Consent Decree, without attachments, is appended hereto as Attachment A. Attachments to the Consent Decree are on file with the Court. After a thirty (30) day comment period, EPA and the State of Idaho expect to move to enter the Consent Decree.

6. This Order is being entered into by EPA and Respondent so that Respondent may proceed with the work required in the 1995 Annual Remedial Action Implementation Plan ("Implementation Plan"), appended hereto as Attachment B, pending entry of the Consent Decree. The Implementation Plan is a document anticipated by the Consent Decree that was prepared by Respondent and approved by EPA.

V. ORDER

7. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), as amended, Respondent shall perform the work identified in the 1995 Implementation Plan. All such work shall be performed in accordance with and shall be subject to the provisions of the Consent Decree, which are incorporated by reference in this Order, except for the following Consent Decree provisions which are excluded from the terms of this Order and will not apply to any activities undertaken by Respondent pursuant to this Order:

- a. Paragraphs 8 (commitments by Stauffer Entities) and 9 (commitments by Union Pacific), except with respect to implementation of the 1995 Implementation Plan;
- b. Section VII (Additional Response Actions);
- c. Section XIV (Assurance of Ability to Complete Work);
- d. Paragraph 62 (Insurance);

VI. TERMINATION OF ORDER

8. Upon entry of the Consent Decree this Order shall be deemed satisfied and shall terminate as to the Respondent.

VII. EPA REMEDIES

9. So long as this Order remains in effect, EPA may pursue any remedies or sanctions which may be available to EPA pursuant to CERCLA by reason of Respondent's failure to comply with any of the requirements of this Order and may assess Stipulated Penalties for any violation of this Order in accordance with the terms of Section XXI of the Consent Decree. Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect the public health, welfare, or the environment.

VIII. PERSONS BOUND

10. This Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent shall be responsible for ensuring full compliance with this Order by all of their officers, directors, principals, parents, subsidiaries, employees, agents, contractors, subcontractors, consultants, and other persons acting for or on behalf of Respondent with respect to implementation of this Order. Any change in ownership or corporate status of the Respondent including, but not limited to, any transfer of assets or real or personal property, or efforts made to carry out the terms of this Order through agents, contractors, subcontractors, and consultants, shall in no way alter such Respondent's responsibilities under this Order.

IX. EFFECTIVE DATE

11. The effective date of this Order is the date, after signature by Respondent, on which it is signed by the EPA Superfund Branch Chief, Hazardous Waste Division, Region 10. Not later than five (5) calendar days after Respondent receives oral or written notice from EPA that this Order is effective, Respondent shall commence work in accordance with the Implementation Plan.

X. AMENDMENTS

12. This Order may be amended by mutual agreement of EPA and Respondent. Agreed amendments to this Order shall be in writing and shall have as the effective date, that date, after signature by Respondent, on which such amendments are signed by the EPA Superfund Branch Chief, Region 10. The Respondent's project coordinator and/or EPA's On-Scene Coordinator shall be authorized, to extend by mutual written agreement, any date, deadline or schedule contained in the Implementation Plan.

XI. SATISFACTION OF ORDER

13. Within sixty (60) days of completion of the 1995 construction season, Respondent shall submit to EPA a Construction Completion Report documenting completion of the work required under the 1995 Implementation Plan and containing the information required by Section 3.3.3 of the Implementation Plan of the Statement of Work, which is appended as Attachment 3 to the Consent Decree. If the Consent Decree has not been entered by the Court, EPA shall, to the best of its ability, within sixty (60) days from the date of submission of the Construction Completion Report, determine whether the work required under the 1995 Implementation Plan has been fully completed in accordance with the Record of Decision, Remedial Design Report and Statement of Work appended to the Consent Decree, and upon concluding that

such work was properly completed, EPA shall so certify in writing to the Respondent. However, if the Consent Decree is entered by the Court prior to the expiration of sixty (60) days after the date that Respondent submit the Construction Completion Report, certification shall be in accordance with the terms and conditions of the Consent Decree.

The undersigned, by affixing signatures below, hereby represents that he or she has the authority to bind the noted Respondent, its agent and its employees.

STIPULATED, AGREED, AND
APPROVED FOR ISSUANCE

By: _____

Date: _____

Title: _____

UNION PACIFIC RAILROAD COMPANY

IT IS SO ORDERED this ____ day of _____, 1994.

BY: _____
James M. Everts
Chief, Superfund Response and
Investigations Section
U.S. EPA, Region 10